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9 UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 THOMAS ALEX MORRISON, JR.,

15 Defendant.

Case No. 1:21-CR-02032-SMJ

STIPULATION FOR PROTECTIVE
ORDER REGARDING
IDENTIFICATION OF MINOR
VICTIM OR WITNESS
PURSUANT TO
18 U.S.C. § 3509

Court: September 29, 2021 at 6:30pm
Hon. Salvador Mendoza, Jr.
United States District Judge

16 Plaintiff United States of America, by and through Joseph H. Harrington,
17 Acting United States Attorney for the Eastern District of Washington, and Michael
18 D. Murphy, Assistant United States Attorney for the Eastern District of
19 Washington, and Defendant Thomas Alex Morrison, Jr. (“Defendant”), through his
20 counsel of record, Paul Shelton, Esq., enter the following stipulation regarding the
21 need for a Protective Order to protect identities of child victims or witnesses,
22 pursuant to 18 U.S.C. § 3509(d)(3)(ii).
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1 A federal Grand Jury has returned an Indictment on August 10, 2021
2 charging Defendant with two counts of Aggravated Sexual Abuse in violation of
3 federal law. ECF No. 1.

4 The government and Defendant stipulate that the discovery in this matter
5 includes the bona fide identity and/or images of alleged child victims and
6 witnesses.

7 Because minor children are involved in this case, the privacy protection
8 measures required by the Child Victims' and Child Witnesses' Rights Act (the
9 "Act"), 18 U.S.C. § 3509, apply in this case.

10 The Act defines a "child" as "a person who is under the age of 18, who is or
11 is alleged to be . . . a victim of a crime of physical abuse, sexual abuse, or
12 exploitation . . . or a witness to a crime committed against another person." 18
13 U.S.C. § 3509(a)(2). The Act defines "sexual abuse" as including "the
14 employment, use, persuasion, inducement, enticement, or coercion of a child to
15 engage in . . . sexually explicit conduct. 18 U.S.C. § 3509(a)(8).

16 The Act requires that certain measures be taken to protect the privacy of
17 minors, including the following:

18 (1) Confidentiality of information –

19 (A) A person acting in a capacity described in subparagraph (B) in
20 connection with a criminal proceeding shall –

- 21 (i) keep all documents that disclose the name or any other
22 information concerning a child in a secure place to which no
23 person who does not have reason to know their contents has
24 access; and
25 (ii) disclose documents described in clause (i) or the information in
26 them that concerns a child only to persons who, by reason of
27 their participation in the proceeding, have reason to know such
28 information.

1 (B) Subparagraph (A) applies to –

2 (i) all employees of the Government connected with the case,
3 including employees of the Department of Justice, any law
4 enforcement agency involved in the case, and any person hired
5 by the Government to provide assistance in the proceeding;

6 (ii) employees of the court;

7 (iii) the defendant and employees of the defendant, including the
8 attorney for the defendant and persons hired by the defendant or
9 the attorney for the defendant to provide assistance in the
10 proceeding; and

11 (iv) members of the jury.

12
13 (2) Filing under seal. – All papers to be filed in court that disclose the name of
14 or any other information concerning a child shall be filed under seal without
15 necessity of obtaining a court order. The person who makes the filing shall
submit to the clerk of the court –

16 (A) the complete paper to be kept under seal; and

17 (B) the paper with the portions of it that disclose the name of or other
18 information concerning a child redacted, to be placed in the public
19 record.

20 18 U.S.C. §§ 3509(d)(1) and (2).

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22 The Act also permits the Court to issue a protective order “protecting a child
23 from public disclosure of the name of or any other information concerning the
24 child in the course of the proceedings, if the court determines that there is a
25 significant possibility that such disclosure would be detrimental to the child.” 18
26 U.S.C. § 3509(d)(3)(A). A protective order may:

27 (i) provide that the testimony of a child witness, and the testimony
28 of any other witness, when the attorney who calls the witness
has reason to anticipate that the name of or any other

1 information concerning a child may be divulged in the
2 testimony, be taken in a closed courtroom; and

- 3 (ii) provide for any other measures that may be necessary to protect
4 the privacy of the child.

5 18 U.S.C. § 3509(d)(3)(B).

6 The government and Defendant stipulate that it is appropriate for the Court
7 to enter an Order requiring that alleged minor victims and any minor witnesses
8 involved in this case be referred to only by their initials or a pseudonym such as
9 “Minor Victim 1” during any pre-trial, trial, and/or post-trial proceedings. The
10 government represents that this is necessary to protect the privacy and reputation
11 of the alleged minor victim, to minimize additional emotional trauma which likely
12 would result from publication of their identities, and to minimize any personal
13 embarrassment that they will experience if their identities are disclosed publicly.
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15 This restriction serves a compelling interest in “safeguarding the
16 psychological well-being of a minor.” *Globe Newspaper Co. v. Superior Court*,
17 457 U.S. 596, 604-05 (1982). If no protective measures are taken, and the minor’s
18 identity is disclosed, the minor may be subject to inquiries and scrutiny from the
19 press and members of the community. The government submits that disclosure of
20 the minor’s identity will thus likely harm the minor’s well-being.

21 In this case, the bona fide identities of certain minors (victims and/or
22 witnesses) are already known to Defendant. The government seeks to protect their
23 identities from the public. Accordingly, the government and Defendant seek a
24 protective order that will permit the government to produce discovery in an
25 unredacted form to the defense, but will proscribe the defense’s ability to use or
26 publicize the identities of any alleged victims.

27 The government represents that a Protective Order is necessary to protect the
28 privacy and welfare of minor victims or witness as set forth in 18 U.S.C. § 3509

1 and that public disclosure of the name or other information concerning minor
2 children who are alleged to have been sexually exploited or have knowledge of
3 sexual exploitation by Defendant would cause a significant possibility that the
4 disclosure would be detrimental to the well-being of the alleged victims.

5 The government and Defendant stipulate that it is appropriate for the Court
6 to enter an order requiring that the defense team, defense attorneys, staff,
7 investigators, and interns be precluded from disclosing or disseminating in any
8 manner, the name or identity of any alleged victim or minor witness and/or the
9 nature of the allegations, except by the alleged victims' initials or pseudonym.

10 The government and Defendant request that the Court's order will permit
11 Defendant himself to review the unredacted non-contraband discovery in the
12 presence of defense counsel or a defense investigator, but will not permit
13 Defendant to keep any discovery in his own possession outside the presence of
14 defense counsel or a defense investigator.

15 The government and Defendant stipulate that defense counsel and defense
16 investigators will not permit Defendant to keep, copy, or record the identities of
17 any child or victim identified in discovery in this case.

18 The government and Defendant stipulate that the requested protective order
19 will comply with the directives contained in the United States Code and the
20 requirement that the highest care should be taken to protect the privacy and
21 well-being of the alleged minor victims and witnesses in this case, while at the
22 same time affording Defendant a fair pre-trial discovery and trial process.

23 The government and Defendant respectfully request that the Court enter the
24 proposed Protective Order Regarding Identification of Minor Victim pursuant to
25 18 U.S.C. § 3509, filed contemporaneously herewith.
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4 IT IS SO STIPULATED.
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6 Dated: September 22, 2021

Joseph H. Harrington
Acting United States Attorney

8 /s/ Michael D. Murphy
9 Michael D. Murphy
10 Assistant United States Attorney

11 Dated: September 22, 2021

approved electronically
12 Paul Shelton
13 Attorney for Defendant
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21 **CERTIFICATE OF SERVICE**

22 I hereby certify that on September 22, 2021, I electronically filed the
23 foregoing with the Clerk of the Court using the CM/ECF System, which will
24 provide an electronic copy to Defendant's counsel of record.
25

26 s/ Michael D. Murphy
27 Michael D. Murphy
28 Assistant United States Attorney